

<b>Location:</b>	<b>116 6<sup>th</sup> Street</b>
<b>Assessors Parcel Number:</b>	<b>001-0173-009-00 (see map on the reverse)</b>
<b>Proposal:</b>	Construction of an 11-story residential building containing 80 units.
<b>Applicant:</b>	Willie Cook / (510) 528-9074
<b>Owners:</b>	6 <sup>th</sup> & Oak Street, LLC
<b>Planning Permits Required:</b>	Interim Major Conditional Use Permit for a density that exceeds the zoning but is consistent with the General Plan; Minor Variances for the rear yard setback and dimension of parking space against a wall or other obstruction; Design Review. A Tentative Parcel Map will be considered under separate permit.
<b>General Plan:</b>	Central Business District
<b>Zoning:</b>	C-40 Community Thoroughfare Commercial S-4 Design Review Combining Zone / S-17 Downtown Residential Open Space Combining Zone
<b>Environmental Determination:</b>	Infill Exemption; CEQA Guidelines Section 15332
<b>Historic Status:</b>	The project site is a vacant lot. The project is directly adjacent to several Potentially Designated Historic Properties (PDHP's) with survey ratings of C1+. These properties are located within the 7th Street / Harrison Square Residential Historic District. This district is an Area of Primary Importance eligible for inclusion on the National Register of Historic Places.
<b>Service Delivery District:</b>	Downtown Metro
<b>City Council District:</b>	2
<b>Date Filed:</b>	October 11, 2005
<b>Staff Recommendation:</b>	Decision based on staff report
<b>Finality of Decision:</b>	Appealable to City Council within 10 days
<b>For further information:</b>	Contact case planner <b>Heather Klein</b> at <b>510 238-3659</b> or by e-mail at <b>hklein@oaklandnet.com</b> .

**SUMMARY**

The project sponsor has submitted a request to construct an 11-story (129' tall) residential high-rise containing 80 condominium units. The .34 acre project site is located on a vacant lot at the corner of 6<sup>th</sup> and Oak Streets.

The architectural style of the building is reminiscent of 1920's high-rise apartments. The determination to construct a building in a period style was the result of the applicant's preference and the location adjacent to the 7<sup>th</sup> and Harrison Historic District. The project's mass, bulk, and scale would be a distinct departure from the 1-2 story buildings in the area. The proposed materials are pre-cast concrete with stone detailing at the base and top and pre-cast concrete with brick detailing for the middle portion of the building. The project would also include an arched residential entrance; glazed and opaque storefront windows; decorative metal railings, screens, and grills; and a steel and glass canopy.

The project requires an Interim Major Conditional Use Permit for a density that exceeds the zoning but is consistent with the General Plan; and Minor Variances for the rear yard setback and dimension of parking space against a wall or other obstruction. Design review is also required for the project. Additional discussion of these issues is provided later in the ZONING COMPLIANCE and DESIGN ISSUES sections of this report.

**(Contains map showing the project site and general vicinity)**

Staff recommends approval of the project subject to the findings and conditions. The required variances are justified given the constraints of this site and the nature of the project.

## **PROJECT SITE AND SURROUNDING AREA**

### *Existing Conditions*

The .34 acre site is currently vacant. It is located at the eastern edge of the Chinatown District at the intersection of 6<sup>th</sup> and Oak Streets and adjacent to the 7<sup>th</sup> and Harrison Historic District. This district is an Area of Primary Importance (API) and eligible for inclusion on the National Register.

### *Surrounding Area*

The area surrounding the project site contains a mix of land uses. To the north, are single family dwellings, which are Potentially Designated Historic Properties (PDHP's) and contributors to the 7<sup>th</sup> and Harrison Historic District. A vacant lot, a printing press shop, and parking lot are located to the east. To the south, across 6<sup>th</sup> Street, are a parking lot, Interstate 880 and Jack London Square. To the west are single-family dwellings, an auto body shop, and the Light of the Buddha Temple. Diagonally across 6<sup>th</sup> Street is the Interstate 880 freeway off-ramp.

## **PROJECT DESCRIPTION**

The project proposes construction of an 11-story (129') high-rise building containing 80 residential units. Plans show a 6' setback proposed along the rear and interior side property lines for the first two levels and a 20-28' setback for the remaining levels. A 0' setback is proposed along the front and corner side property lines.

As described in the *Summary*, the architectural style of the building is reminiscent of 1920's high-rise apartments. The building exteriors are divided into three distinct parts with a base, middle, and top. The base (level 1) is delineated by pre-cast concrete with stone detailing including two 18' tall pre-cast concrete arches at the corner of 6<sup>th</sup> and Oak Streets. The ground floor elevation also includes storefront-style windows at the lobby, opaque storefront-style windows in front of the garage, decorative ornamental railings or screens, and decorative gates for the parking garage and loading entrance. A steel and glass canopy shades the lobby entrance. The middle portion (levels 2-9) is composed of pre-cast concrete with brick detailing. Ornamental railings are shown in a random pattern in front of the windows. A pre-cast concrete trim band delineates the middle from the top portion of the building. The top (levels 10-11) is highlighted by pre-cast concrete with a stone finish to match the base and two story windows with a concrete spandrel. The top of the building terminates with ornamental dentals and another pre-cast concrete cornice.

The ground floor plans show the residential lobby located at the corner; the garage and loading entrances, 2 exit stair/corridors, and 80 parking spaces (78 of which are on a mechanical lift system). The ±1,525 sq. ft. lobby has an 18' high ceiling. The 2nd floor shows 8 units, a large common terrace, and private decks, while the 3<sup>rd</sup> through 11<sup>th</sup> stories show only 8 units per floor. The condominiums are a combination of one bedroom units that range from 805 to 990 sq. ft. and two bedroom units that range from 1,045 to 1,215 sq. ft.

Open space is provided through a 4,569 sq. ft. landscaped courtyard on level 2 and a 1,430 sq. ft. roof garden located on level 12. Materials for these open space areas include planter boxes, benches, and gazebos. Additional open space totaling (1,160 sq. ft.) is provided through private patios also located on the 2<sup>nd</sup> level. Staggered street trees are also proposed.

## **GENERAL PLAN ANALYSIS**

The General Plan designation for the project site is Central Business District (CBD). The maximum residential density provided in the CBD category is 300 dwelling units per gross acre or 500 dwelling units per net acre. The .34 acre project site could support a maximum of 172 units. The 80-unit project on the site is well under the maximum allowable density by 92 units.

The General Plan states the *intent* of the CBD designation is to “encourage, support, and enhance the downtown area as a high density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment, and transportation in northern California.” The General Plan states that the *desired character* of future development in the area should include “a mix of large-scale offices, commercial, urban (high-rise) residential, institutional, open space, cultural, educational, arts, entertainment, service, community facilities, and visitor uses.”

The following General Plan Land Use and Transportation Policies and Objectives apply to the proposed project:

Policy D6.1 Construction of vacant land or to replace surface parking lots should be encouraged, where possible. **The project will provide residential units and fill an empty lot in an urban area. Furthermore, the project will act as a welcome buffer to the scale and noise of the freeway for the residential units behind the project.**

Policy D10.1 Housing in the downtown should be encouraged as a vital component of a 24-hour community presence. **The project is located in the CBD General Plan designation which envisions a fairly high density in this area of 500 units per gross acre. This high-density would help achieve a twenty-four hour presence in the Downtown and enhance a sense of community. The proposed project will add 80 new residential units to Oakland’s housing stock in the Chinatown District.**

Policy D10.2 Housing in the downtown, should be encouraged in identifiable districts, within walking distance of the 12<sup>th</sup> Street 19<sup>th</sup> Street, City Center, and Lake Merritt BART stations to encourage transit use, and in other locations where compatible with surrounding uses. **Adding housing units near BART stations, and throughout the City, is a key goal of the General Plan. The project is proposing 80 residential units at the eastern edge of Downtown in the Chinatown District. The project site is located within walking distance (2 blocks) from the Lake Merritt Bart station. In addition to the BART, the site can be readily served by AC Transit bus routes including the 11, 59, 62, and the 88.**

Policy D10.5: Housing in the downtown should be safe and attractive, of high quality design, and respect the downtown’s distinct neighborhoods and history. **The proposed project is designed with high quality materials which include pre-cast concrete with stone and brick detailing; arched residential entrances; a steel and glass canopy; and decorative metal railings, screens, and grills. The project also includes streetscape improvements. As far as respecting the district neighborhood and history, the project will be located adjacent to a historic district, but in an area with mixed land uses. These uses include parking lots; vacant lots; single family dwellings which are PDHP’s; a printing press, an auto body shop, and a temple. Although the historic district has a distinct architectural style, the rest of the neighborhood does not. The proposed structure will be woven into a downtown urban fabric that includes a mix of land use activities.**

The proposed project meets the referenced objectives, the general intent of the CBD land use designation, and is a good fit for this area.

The current zoning potentially conflicts with the CBD land use designation, in that, the C-40 zone does not permit a maximum density equal to the General Plan. In these situations, pursuant to the *Guidelines*

for Determining Project Conformity with the General Plan and Zoning Regulations (as amended July 2003), the General Plan governs, and the higher density is permitted with an Interim Major Conditional Use Permit. (Section 17.01.100.B)

**ZONING ANALYSIS**

*Density*

The zoning of the site is C-40 or Community Thoroughfare Commercial. The maximum residential density is set forth in the R-70 regulations, which permits 1 unit per 450 sq. ft. of lot area. The .34 acre site would permit a maximum density of 33 units. As stated above in the GENERAL PLAN ANALYSIS, the 80 units are permitted with approval of an Interim Major Conditional Use Permit.

*Overlay Zones*

The S-17 Downtown Residential Open Space Combining Zone and the S-4 Design Review Combining Zone are additional zoning designations overlaid on the site. The S-17 zone allows for a reduced open space requirement of 75 sq. ft. per unit. The S-4 is intended to create, preserve, and enhance the visual harmony and attractiveness of areas which require special treatment and the consideration of relationships between facilities. In the S-4 zone no building, other than a new Secondary Unit shall be constructed unless plans for such proposal have been approved pursuant to the design review procedure.

The following table depicts the project’s comparison to the C-40 development standards:

**Zoning Regulation Comparison Table**

Criteria	Requirement C-40	Proposed	Comment
Yard – Front	0’	0’	Meets the C-40 requirements.
Yard – Street Side of Corner Lot	0’	0’	Meets the C-40 requirements.
Yard – Interior Lot Line	0’	6” and 20’ above 2 <sup>nd</sup> story	Meets the C-40 requirements.
Yard – Rear	10’	6” and 28’ above the 2 <sup>nd</sup> story	Does not meet C-40 requirements. A Variance is required for the rear yard setback.
Height	No Maximum	129’	Meets the C-40 requirements.
Usable Group Open Space	150 sq. ft. / unit = 12,000 sq. ft.*	89 sq. ft. / unit = 7,159 sq. ft.	Does not meet the C-40 150 sq. ft. / unit requirement but meets the S-17 overlay 75 sq. ft. / unit requirement.
Parking	1 space / unit = 80 spaces	80 spaces	Meets the C-40 requirements.
Residential Density	1 unit / 450 sq. ft. =33 units	80 units	Does not meet the C-40 requirements, but is permitted with approval of an Interim Major Conditional Use Permit.

*Table Notes:*

\* The S-17 overlay zoning requirement of 75 sq. ft. of open space per unit supersedes the underlying C-40 zoning requirement.

The criteria for review and approval of this facility at this location includes the following: The General Use Permit Criteria in Section 17.134.050, the criteria for Variances in Section 17.148.050 apply, and the Design Review Criteria in Section 17.136.070. All applicable criteria are analyzed and appropriate findings are made in the *FINDINGS* Section of this report.

#### ENVIRONMENTAL DETERMINATION

After reviewing the technical studies including the traffic and historic analysis, staff has concluded that the project satisfies the in-fill exemption of the California Environmental Quality Act (CEQA), Section 15332 (See Attachment B). The categorical exemption criterion follows with a brief summary of staff's analysis in bold print:

- a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; **As demonstrated in the General Plan Analysis section of this report, the application is consistent with all applicable General Plan policies and the CBD designation. The Zoning Analysis and Required Findings sections demonstrate that, with approval of the CUP and Variances, the project is consistent with the Zoning Ordinance.**
- b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; **The project site encompasses approximately .34 acres. The site is located within the Chinatown neighborhood of Oakland and is substantially surrounded by commercial, civic, and residential urban uses.**
- c) The project site has no value as habitat for endangered, rare or threatened species; **The project site is currently a vacant lot and surrounded on all sides by urban development. The site contains no known endangered, rare, or threatened species.**
- d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; **A traffic study was completed specifically for this project and submitted on December 15, 2005 and January 11, 2006 (See Attachment B). Traffic impacts from the project were reviewed at 7 intersections within proximity to the project site. The impacts of the current project were compared with the results analyzed in the Oak to 9th Street DEIR. No new data was collected except for the 6th and Oak Streets / I-880 off-ramp. The project is anticipated to generate approximately 328 new net daily trips, 24 AM peak hour trips and 30 PM peak hour trips. The report's findings indicate that all intersections would operate at a LOS C or better. The trips associated with the project would generate far fewer than the 2,000 vehicle trips per day that the Bay Area Air Quality Management District (BAAQMD) considers the normal minimum traffic volume that should require a detailed air quality analysis. There may, however, be minimal localized temporary impacts to air quality during demolition and construction, as well as temporary noise impacts. The applicant is required to comply with all applicable City regulation and operation procedures as part of the issuance of building or grading permits, including standard noise, dust, and environmental control measures. These measures have been incorporated into the conditions of approval. Recommended conditions (Nos. 11-21) specify the required construction period management procedures.**

- e) The site can be adequately served by all required utilities and public services. **The project site is located in a highly urbanized area within downtown Oakland. The surrounding area and directly adjacent parcels (which include commercial and residential land uses) are currently served by utility and public services. The project site can adequately be served by these services as well.**

**Staff has also concluded that the project would not cause a cumulative impact. The traffic report's findings indicate that all intersections would operate at a LOS E or better even in the cumulative 2010 and 2025 conditions except for the intersection of 6<sup>th</sup> and Jackson; 7<sup>th</sup> and Oak; and 6<sup>th</sup> and Oak. However, the traffic study concluded that the project will not 5% or more to the future cumulative traffic conditions and therefore the project would not have a traffic impact. The historical report completed for the project (Attachment C) determined that the project would not result in a substantial adverse change to a historic resource including the historic district.**

## KEY ISSUES

The proposal seeks to develop a medium density, residential high-rise on a small vacant lot. The proposed project would be a departure in terms of building bulk and massing with most of the buildings in the area. The surrounding buildings are between 1 and 2 stories including the single family residences directly adjacent to the project. Staff believes that the overall site plan, height, and architectural character are appropriate to the area given the General Plan designation, as well as the adjacency of the freeway and Jack London Square.

Below are the remaining key issues associated with this project.

### *VariANCES*

- *Rear Yard Setback:* Staff made a visit to the site to determine the existing setback pattern on the block. At the corner of Madison and 6<sup>th</sup> Street are a commercial printing press and a parking lot. The buildings that make up this commercial use vary in front yard setback (2-40' along 6<sup>th</sup> Street), street side setback (7-11' along Madison Street), rear yard setback (0-25'), and along the interior side setback (parallel to the proposed project's rear setback) is a 0-60' setback. Between the printing press and the proposed project on 6<sup>th</sup> Street is a vacant lot. On the Oak Street side, four structures are located on one parcel with a minimally landscaped front yard setback of 4' and a 0-2' interior side setback. Only along 7<sup>th</sup> Street is there a consistent front yard setback. If the vacant lot were to be developed, this shared property line would be considered a side lot line with no side setback required.

The rear of the project site is opposite the frontage located along Oak Street. This property line is adjacent to the vacant lot. Section 17.54.160 of the Zoning Ordinance states that a rear yard of 10' shall be provided for all residential facilities and the applicant is proposing a 6' setback at the ground level for 18'. The building is then setback 28' from this property line. Staff believes that a variance can be supported since the rear property line of the project site abuts a vacant underutilized site and not a residential property. In addition, there is no consistent side setback as demonstrated above.

- *Parking Space Dimension when Adjacent to a Wall or other Obstruction:* Section 17.116.200 states that when a parking space abuts a wall or other similar obstruction, the width shall be increased by 3'. Currently 37 parking spaces are not meeting the additional width dimension. Staff believes that a minor variance for this small deficiency in width is supportable given that the spaces will be used by the same residents on an everyday basis and so they will learn the skills to maneuver in and out of the spaces. In addition, the parking will be provided on lifts and all of the proposed spaces are larger in

width than regular-sized spaces by an additional foot. Furthermore, staff is requesting a Condition of Approval that would notify residents of the deficient width.

*Historical Issues*

The project is located adjacent to the 7<sup>th</sup> and Harrison Historic District which is roughly bounded by the middle of the 6<sup>th</sup> Street/ 7<sup>th</sup> Street block to the south, 8th Street to the north, Oak Street to the east, and Harrison Street to the west. This district is an Area of Primary Importance and is eligible for inclusion on the National Register of Historic Places. Several structures adjacent to the interior side property line are PDHP's and contributors to the district with a survey rating of C1+. The applicant completed a historical analysis to determine possible impacts of the project on the district and the contributing properties. The report concluded that the construction of the project will not have any direct material impact on the nearby historic resources, including district. Specifically, the project will not materially alter or demolish any of the PDHP's. In addition, the project's large setbacks; detailing and materials; as well as the surrounding context mitigate any potential impacts of the new building such that the significance of the identified historic resources is diminished. (Please refer Attachment C)

*Community Issues*

The project sponsor held a community meeting on October 4, 2005. Approximately 15 neighborhood residents and community members attended the meeting. Concerns brought up during the meeting included the absence of ground floor retail, the height of the building, the interior side setback and the fence along this property line. Traffic seemed to be the issue of most concern. These issues were discussed at the Design Review Committee hearing, a summary of which follows in the next section.

*Design Issues*

Staff presented the project before the Design Review Committee (DRC) on October 26, 2005. Staff's only concern (above those already mentioned at the community meeting) was the opaque backlit storefront-style windows at the ground floor. The Committee believed that this was an appropriate pedestrian-level treatment that would also screen the parking. In addition, many of the public speakers felt that ground floor retail in that area wasn't appropriate and that the height wasn't an issue per the General Plan density. The Committee agreed that the height of the building is appropriate given the adjacency to Interstate 880.

The biggest concern was parking and traffic. Many residents commented that traffic was already a problem at the Oak and 6<sup>th</sup> Street intersection and were concerned that this would be exacerbated by 80 additional units in the area. The residents were especially concerned about traffic given the location near the Oak to Ninth Street project. Furthermore, the neighbors were concerned with the driveway location on Oak Street. As demonstrated in the Environmental Review section of this report, the project results in minimal overall trips and limited peak hour trips that will not cause an impact to the LOS at those intersections analyzed. Furthermore, the project will not result in a cumulative impact on those intersections (See Attachment B as well). A parking analysis was also completed for the project. According to the study there are approximately 79 on-street parking spaces in the vicinity. The study analyzed parking between 6:00 and 8:00 and found that there was about a 66% occupancy rate at 6:00 and 7:00, but that the occupancy dropped to 53% at 8:00. In conclusion, the area has the capacity to cover any additional vehicles that the residents would own. However, given the proximity to BART and other public transportation as well as the demographic that is expected to purchase a project unit, any additional vehicular ownership would be low.

**CONCLUSION**

The proposal seeks to develop a medium-density residential high-rise in the Chinatown District. The project meets the primary goal of providing new high-quality housing units near public transportation, and a 24-hour presence in the area. Furthermore, the project is clearly in conformance with the General

Plan goals and policies. The conditional use permit and variances for the rear yard setback and for parking dimensions where adjacent to a column or other obstruction are not anticipated to create adverse impacts, pursuant to the attached Findings and Conditions of Approval.

**RECOMMENDATIONS:**

1. Affirm staff's environmental determination for Infill Exemption.
2. Approve the Interim Major Conditional Use Permit, Minor Variances and Design Review, subject to the Conditions of Approval and based on the attached findings.

Prepared by:

---

Heather Klein  
Planner II, Major Projects

Approved for forwarding to the  
City Planning Commission:

---

Claudia Cappio  
Development Director

---

Gary Patton  
Major Projects Manager  
Deputy Director of Planning and Zoning

**ATTACHMENTS:**

- A. Plans and Elevations
- B. Traffic Study; TJKM; dated December 15, 2005 and January 11, 2006
- C. Historical Analysis, Thomas Rex Hardy; dated November 1, 2005
- D. Parking Analysis, TJKM; dated December 9, 2005

**FINDINGS FOR APPROVAL**

This proposal meets the required findings under Section 17.134.050 (General Use Permit Findings); Section 17.148.050 (Variances findings); and Section 17.136.070.A (Residential Design Review findings, including the additional design review criteria for higher residential density projects); as set forth below. Required findings are shown in bold type below and are also contained within other sections of this report and the administrative record; explanations as to why these findings can be made are in normal type.

**Section 17.134.050 (Interim Major Conditional Use Permit Criteria)**

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

As stated earlier in the report, the project will be located adjacent to a historic district, but in an area with mixed land uses. These uses include parking lots; vacant lots; single family dwellings which are PDHP's; a printing press, an auto body shop, and a temple. Although the historic district has a distinct architectural style, the rest of the neighborhood does not. The proposed structure will be woven into a downtown urban fabric that includes a mix of land use activities. Therefore the project will not be harmful to neighborhood character.

The location, size, and design are compatible with and will not adversely affect the livability or appropriate development of surrounding properties. The General Plan designation for the project site is the Central Business District which permits the highest residential density in the city at 500 units per gross acre. The project is proposing construction of 80 units which is well under the allowable density for the project. The size of the project would represent a distinct departure from the surrounding smaller-scaled neighborhood. However, the project is located directly adjacent to the freeway and staff feels that a project of this size will provide an attractive noise and visual barrier to the freeway. Furthermore, the location near the freeway off-ramp and size will effectively make the project an important gateway building to downtown. The design of the project is reminiscent of a 1920's apartment building. The design intent was chosen in part due to the adjacency of the historic district. The building and the materials are compatible with those in the district.

The 80 unit project will not impact traffic circulation or the capacity of the surrounding streets. The project will only generate 24 AM and 30 PM peak hour trips.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The project will provide living opportunities that are close to the downtown area and are 2 blocks away from the Lake Merritt BART station. The project is also located 3 blocks away from Laney College and 4 blocks away from the Oakland Museum and many civic buildings. The residential use will contribute to creating a convenient and functional living environment and is encouraged by the General Plan. The building's design and materials are of high-quality and will be an attractive addition to the area.

*Findings*

- C. **That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed project will construct 80 units on a vacant and underutilized parcel in downtown Oakland. This project, at the opposite corner of the freeway off-ramp, provides a unique and attractive gateway to Downtown. The proposed project will greatly enhance the successful operation of the surrounding area by providing housing and a 24-hour presence in the area. In addition, the project will further the General Plans policies and goals, as described elsewhere in this report.

- D. **That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.**

The proposed project conforms to all applicable design review criteria including the residential design review findings as outlined later in this section.

- E. **That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

The proposed project conforms in all significant respects with the "Central Business District" General Plan land use designation. The project will support the objectives and policies of the Land Use and Transportation Element (LUTE) for this area including construction on vacant lots (Policy D6.1); encouraging the construction of housing units to provide a 24-hour community presence (Policy D10.1); encouraging developments in identifiable district near transit (Policy D10.2); and construction with high quality design and materials (Policy D10.5).

#### **Section 17.148.050(A) Minor Variance Findings**

1. **That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.**

a) *Rear Yard Setback*: Planning Code Section 17.56.170 requires a rear setback of 10' for all residential facilities and the applicant is proposing a 0' setback. Staff believes that a variance can be supported for several reasons. First, as demonstrated in the *Key Issues* section there is no consistent setback along that block. The printing press is built to within 2' of the property line. Second, if the adjacent property where to be developed it is likely that the building would be constructed on the property lines since no side setback is required per zoning. Third, providing a rear setback would create an awkward space that could become a public nuisance. Fourth and finally, strict compliance would require a reduction in off-street parking or the increase in building height, neither of which is encouraged by staff.

b) *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width*: Section 17.116.200 states that when a parking space abuts a wall or other similar obstruction, the stall width shall be increased by 3'. The current plans do not provide the extra dimension, however the stalls are 1' wider than the standard parking space. The

variance related to the width of standard sized parking spaces adjacent to walls or other obstructions is requested in order to maintain the maximum number of parking spaces within the limited confines of the parking structure. The amount of parking space is restricted by the property line as well as the necessary column and sheer wall placement. Strict compliance would either reduce the number of off-street parking spaces or require an extra parking level. Staff believes that a variance can be granted since the spaces will be consistently used by residents who are familiar with how to maneuver in and out of the lift spaces and the garage. No conflicts with doors opening or vehicles entering or exiting the spaces should occur because of the positioning of the columns toward the rear of the spaces and the extra 1' in width. Staff has proposed a condition of approval requiring a parking management plan and that the CC&R's state that there is a deficiency in width (Condition No. 23).

**2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation.**

- a) *Rear Yard Setback:* The intent of the setback regulation is to provide open space, as well as light and air for the residents and surrounding property owners. Planning Code Section 17.56.170 requires a rear setback of 10' for all residential facilities and the applicant is proposing a 0' setback. Staff believes that a variance can be supported since there is no consistent setback along that block. In addition, the project is providing adequate open space, light, and air for the residents. Furthermore, if the adjacent vacant lot where to be developed it is likely that that project would be built directly to the side setbacks. Strict compliance with this regulation would create an awkward space that could create a public nuisance.
- b) *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width:* Strict compliance with the additional width of parking spaces adjacent to walls or columns would preclude the project's effective design solution that fulfills the basic intent of the Planning Code's regulations. It would require the parking garage to be taller to maintain the same number of parking spaces or reduce the total number of spaces. Pursuant to proposed Condition No. 23, the lack of additional width should not have detrimental effects.

**3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy.**

- a) *Rear Yard Setback:* The lack of a rear setback is not expected to adversely affect the character or livability of the neighborhood. As described elsewhere in the staff report, there are not consistent setbacks along that block due to the various land uses. The building would only violate the setback requirements for the first 18' and then the building would step back 28' or roughly the height of a 2 ½ story building. Strict compliance would affect 16 parking stalls and bicycle storage. It would require either a reduction in off-street parking spaces or an additional building story. Staff believes that a variance can be granted since 1) there is no consistent setback and 2) the property abuts a vacant lot that is likely to be developed with 0 side setbacks as permitted by zoning.
- b) *Parking Space Dimension when Adjacent to a Wall or other Obstruction and Maneuvering Aisle Width:* The variance for the width of parking spaces adjacent to walls or similar obstructions will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area. The variance will result in minor effects to the

internal operations of the garage and will not be detrimental to the public welfare. Granting of the variance will ensure that the project is consistent with plans and development policies for the area. If the variance is not granted and the project remained at its current size, the project would need to provide fewer parking spaces or additional space for parking, likely raising the height of the building which would be impractical.

- 4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations.**

a and b): All of the variances are necessary and can be supported. Compliance with these zoning requirements would adversely affect the operational efficiency of the ground floor plan. The variance for the rear setback and parking space dimensions will not be detrimental to the adjacent properties as described above. The variances do not constitute special privilege but would rather meet the intent of the zoning regulations by supporting an appropriate design and internal configuration that facilitates the construction of new development as encouraged by the General Plan.

**Section 17.136.070A (Residential Facilities Design Review Findings)**

- 1. That the proposed design will create a building or set of buildings that are well related to the surrounding area in their setting, scale, bulk, height, materials, and textures;**

The project will present a distinct departure from the surrounding area in terms of setting, bulk, and height, and materials. As stated earlier in the report, the project will be located adjacent to a historic district, but in an area with mixed land uses. These uses include parking lots; vacant lots; single family dwellings which are PDHP's; a printing press, an auto body shop, and a temple. Although the historic district has a distinct architectural style, the rest of the neighborhood does not. The proposed structure will be woven into a downtown urban fabric that includes a mix of land use activities. Furthermore, the historic report concluded that the project would not preclude the District's inclusion on the National Register of Historic places.

The project is across 6<sup>th</sup> Street from Interstate 880. The project's location and height will provide a noise and visual buffer from this structure. Furthermore, large setbacks at the second level respond to the surrounding adjacent smaller structures. The project's bulk and massing has been broken down through the setbacks as well as the tripartite arrangement with a clear base, middle, and top. Although the materials are distinct from the surrounding area, pre-cast concrete is a high quality material.

- 2. That the proposed design will protect, preserve, or enhance desirable neighborhood characteristics;**

As stated above, the area has many different architectural styles and land uses. The proposed project will enhance the neighborhood by affectively utilizing a Downtown site for a well-designed building. The project will help to provide a 24-hour presence in the area, near transit and will be constructed of high quality materials. Furthermore, the project will buffer the neighborhood from the noise and visual impacts of the freeway.

- 3. That the proposed design will be sensitive to the topography and landscape;**

The proposed project site is flat and contains no notable landscaping. Therefore, the project will have no affect on the existing topography or landscape.

- 4. That, if situated on a hill, the design and massing of the proposed building relates to the grade of the hill;**

See response #3

- 5. That the proposed design conforms in all significant respects with the Oakland Comprehensive Plan and with any applicable district plan or development control map which has been adopted by City Council.**

The proposed project is consistent with the General Plan land use designation for the site, with Conditional Use Permit, and Variance findings, and with the Design Review Criteria as discussed in more detail throughout the report.

**Additional Criterion for Higher Residential Density Projects:**

**That the proposal will provide for its residents sufficient sunlight, privacy, and quiet, and in general, a convenient, attractive, and functional living environment, with consideration given to site planning, building and room orientation, circulation, and similar relevant factors.**

The proposed project provides sufficient sunlight, privacy, and quiet for the residents. The plans show adequate usable open space with a large landscaped courtyard on the 2<sup>nd</sup> level and several private patios. Additional open space is also provided on the roof of the building. The units are oriented along a double loaded corridor each with a view to the outside for adequate light. The project will need to meet the new Title 24 requirements as far as noise issues with the adjacency of Interstate 880. Overall the site planning will provide a convenient, attractive, and functional living environment near public transportation, Chinatown, Laney College, and the Jack London neighborhood. Finally, the project, with the use of high quality materials, will provide an attractive gateway to Downtown due to its unique location opposite the freeway off-ramp.

**CONDITIONS OF APPROVAL**

**STANDARD CONDITIONS**

**1. Approved Use.**

***a. Ongoing.***

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans dated **October 10, 2005** and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval.

**2. Effective Date, Expiration, and Extensions**

***a. Ongoing.***

This permit shall become effective upon satisfactory compliance with these conditions. **This permit shall expire on January 18, 2008** unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

**3. Scope of This Approval; Major and Minor Changes**

***a. Ongoing.***

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval by the City Planning Commission.

**4. Modification of Conditions or Revocation**

***a. Ongoing.***

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved use or facility is violating any of the Conditions of Approval, any applicable codes, requirements, regulation, guideline or causing a public nuisance.

**5. Recording of Conditions of Approval**

***a. Prior to issuance of building permit or commencement of activity.***

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

**6. Reproduction of Conditions on Building Plans**

***a. Prior to issuance of building permit.***

These Conditions of Approval shall be reproduced on page one of any plans submitted for a building permit for this project.

**7. Indemnification**

**a. Ongoing.**

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Zoning Division, Planning Commission, or City Council relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

**8. Waste Reduction and Recycling**

**a. Prior to issuance of a building or demolition permit.**

Prior to issuance of any building permits including the grading and/or demolition permit the project applicant will submit a demolition/construction waste diversion plan and operational waste reduction plan for review and approval by the Public Works Agency. The plan will specify the methods by which the development will make a good faith effort to divert 50% of the demolition/construction waste generated by the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. The operational diversion plan will specify the methods by which the development will make a good faith effort to divert 50% of the solid waste generated by operation of the proposed project from landfill disposal. After approval of the plan, the project applicant will implement the plan. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7283 for information.

**9. Electrical Facilities**

**a. Prior to installation.**

All new electric and telephone facilities, fire alarm conduits, streetlight wiring, and similar facilities shall be placed underground. Electric and telephone facilities shall be installed in accordance with standard specifications of the servicing utilities. Street lighting and fire alarm facilities shall be installed in accordance with the standard specifications of the Building Services Department.

**10. Improvements in the Public Right-of-Way**

**a. Prior to issuance of building permit for work in the public right-of-way**

The applicant shall submit Public Improvement Plans for adjacent public rights-of-way showing all proposed improvements and compliance with Conditions of Approval and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications locations of facilities required by the East Bay Municipal Utility District (EBMUD), and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this approval. Encroachment permits shall be obtained as necessary for any applicable improvements.

**STANDARD CONSTRUCTION PERIOD MANAGEMENT CONDITIONS**

**11. Pre-construction Meeting with the Neighborhood**

**a. Prior to issuance of a grading, demolition, or building permit.**

A preconstruction meeting shall be held with the immediate neighbors within 300' of the job site to discuss neighborhood notification, location of staging areas, major deliveries, detours and lane closures etc. Both Planning staff and the building coordinator shall attend this meeting.

**12. Pre-construction Meeting with the City**

***a. Prior to issuance of a grading, demolition, or building permit.***

A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager with the City's project building coordinator to confirm that conditions of approval that must be completed prior to issuance of a grading, demolition, or building permit have been completed (including pre-construction meeting with neighborhood, construction hours, neighborhood notification, posted signs, etc.). The applicant shall coordinate and schedule this meeting with City staff.

**13. Construction Hours for Major Projects.**

***a. During all construction activities.***

Construction hours will be limited to be between 7:00AM to 7:00PM, Monday through Friday. Subject to prior authorization of the Building Services Division and the Planning and Zoning Division, no construction activities shall be allowed on Saturdays until after the building is enclosed, and then only within the interior of the building with the doors and windows closed. Saturday construction activity prior to the building being enclosed shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a survey of resident's preferences for whether Saturday activity is acceptable if the overall duration of construction is shortened. No construction activity shall take place on Sundays or Federal holidays. For clarification, no construction includes but is not limited to: truck idling, moving equipment (including trucks, elevators, etc) or materials, deliveries, and construction meetings either on or off-site.

**14. Construction Period Parking and Traffic**

***a. Prior to issuance of a demolition, grading, or building permit***

The project sponsor and construction contractor shall meet with the Traffic Engineering and Parking Division of the Oakland Public Works Agency (PWA) and other appropriate City of Oakland agencies to determine traffic management strategies to reduce traffic congestion and the effects of parking demand, to the maximum feasible extent, by construction workers during construction of this project and other nearby projects that could be simultaneously under construction. The building coordinator must attend this meeting.

The project sponsor shall submit a construction management and staging plan to the Building Services Division with the application for the first demolition, grading, or a building permit for the project for review and approval. The plan shall include at least the following items and requirements:

1. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes. In addition, the information shall include a construction-staging plan for any right-of-way.
2. Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
3. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours and lane closures will occur.
4. Provision for accommodation of pedestrian flow.

5. Location of construction staging areas.
6. Provisions for monitoring surface streets used for haul routes so that any damage to the street paving and debris attributable to the haul trucks can be identified and corrected.
7. A temporary construction fence to contain debris and material and to secure the site.
8. Provisions for removal of trash generated by project construction activity. The applicant shall ensure that debris and garbage is collected and removed from the site daily.
9. At least one copy of the approved above referenced plans that include the Approval Letter and the Conditions of approval for this project shall be available for review at the job at all times.
10. All work shall apply the “Best Management Practices” (BMPs) for the construction industry, including BMPs for dust, erosion, and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.
11. Dust control measures as set forth in Condition 15, below.
12. Noise control measures as set forth in Condition No. 16, below.
13. A process for responding to, and tracking, complaints pertaining to construction activity, including the identification of an on-site complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. The Planning and Zoning Division shall be informed who the Manager is prior to the issuance of the grading permit

**15. Dust Control Measures.**

***a. During all construction activities.***

Dust control measures shall be instituted and maintained during construction to minimize air quality impacts. The measures shall include:

1. Watering all active construction areas as necessary to control dust;
2. Covering stockpiles of debris, soils or other material if blown by the wind;
3. Sweeping adjacent public rights of way and streets daily if visible soil material or debris is carried onto these areas.
4. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
5. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas;
6. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
7. Install sandbags or other erosion control measures to prevent silt runoff onto public roadways; and
8. Replant vegetation in disturbed areas as quickly as possible.

***Conditions of Approval***

**16. Construction Related Noise Control.**

***a. During all construction activities.***

To reduce daytime noise impacts due to construction, to the maximum feasible extent, the City shall require the applicant to develop a site-specific noise reduction program, subject to city review and approval, which includes the following measures:

1. Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems.
2. An on-site complaint and enforcement manager shall be posted to respond to and track complaints.
3. A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a demolition, grading, or a building permit (including construction hours, neighborhood notification, posted signs, etc.).
4. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).
5. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
6. Stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

**17. Pile Driving and other Extreme Noise Generators**

***a. During all construction activities.***

**Hours.**

If pile-driving and/or other extreme noise generating activities greater than 90 dba occur, they shall be limited to between 8:00 AM and 4:00 PM, Monday through Friday, with no extreme noise-generating activity permitted between 12:30 PM and 1:30 PM. No extreme noise-generating construction activities shall be allowed on Saturdays, Sundays, or holidays.

**Pile Driving – Noise Attenuation.**

To further mitigate potential pile-driving and/or other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. This noise reduction plan shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation is achieved. A third-party peer review, paid for by the applicant, shall be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the applicant. A community meeting shall be held after the peer review but prior to approval of a noise reduction plan by the City. A special inspection deposit shall be determined by the Building Official, and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. These attenuation measures shall include as many of the following control strategies as feasible and shall be implemented prior to any required pile-driving activities:

***Conditions of Approval***

1. Implement “quiet” pile-driving technology, where feasible, in consideration of geotechnical and structural requirements and conditions;
2. Erect temporary plywood noise barriers around the entire construction site;
3. Utilize noise control blankets on the building structure as it is erected to reduce noise emission from the site;
4. Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
5. Monitor the effectiveness of noise attenuation measures by taking noise measurements.

**Pile Driving – Complaint Response.**

A process with the following components shall be established for responding to and tracking complaints pertaining to pile-driving construction noise:

1. A procedure for notifying City Building Division staff and Oakland Police Department;
2. A list of telephone numbers (during regular construction hours and off-hours);
3. A plan for posting signs on-site pertaining to complaint procedures and who to notify in the event of a problem;
4. Designation of a construction complaint manager for the project; and
5. Notification of neighbors within 300 feet of the project construction area at least 30 days in advance of pile-driving activities.

**18. Site Maintenance.**

***a. During all construction activities.***

The applicant shall ensure that debris and garbage is collected and removed from the site daily.

**19. Cultural Resources found during Site Work and Construction.**

***a. Prior to issuance of any grading permits and throughout construction.***

In accordance with the California Environmental Quality Act (CEQA) Section 15064.5, if the applicant discover any previously unidentified cultural resources during any onsite or offsite construction phase of the proposed project, the project applicant is required to cease work in the immediate area until such time as a qualified archaeologist and the City of Oakland can assess the significance of the find and make mitigation recommendations, if warranted. To achieve this goal, the contractor shall instruct the construction personnel on the project as to the potential for discovery of archeological, pre-historic, historic, cultural, or human remains. The contractor shall ensure that all construction personnel understands the need for proper and timely reporting of such finds, and the consequences of any failure to report them. Any recommendations of the qualified archeologist shall be implemented prior to resumption of work in the affected area.

**20. Special Inspector**

***a. Throughout construction***

The project sponsor shall be required to pay for the staff time of the on-call special inspector(s) as stipulated by the prevailing labor management agreement, or as directed by the Building Official. Prior to issuing any construction-related permits ( including demolition and grading permits), the project sponsor shall establish a deposit, in an amount determined by the Building Official, with the Building Services Division to fund a special inspector who shall be available as needed, as determined by the Building

Official or the Planning Director. If the deposited amount proves to be insufficient, then within five (5) calendar days of a written request from the Building Official/Planning Director to provide additional funding, the project sponsor shall deposit said amount with the Building Services Division.

**STANDARD ENVIRONMENTAL CONDITION:**

**21. State, Federal, or County Authority Environmental Approval**

***a. Prior to issuance of demolition, grading, or a building permit***

The applicant shall demonstrate, through written verification that required clearances have been granted and any applicable conditions have been met for previous contamination at the site from the appropriate State, Federal or County authorities. The applicant shall prepare a Human Health Risk Assessment (HHRA) and obtain final closure from the Alameda County Department of Environmental Health (ACDEH) and submit evidence of approval by ACDEH to the City of Oakland prior to the issuance of any building or grading permits. This HHRA will evaluate the several contaminants identified in the site that could pose a risk to site occupants and detail administrative and/or engineering controls that may be necessary to reduce risks to a level acceptable for residential uses. These controls will be required and implemented prior to issuance of demolition, grading, or a building permits pursuant to standard City practices. The applicant shall also develop a health and safety plan to address these issues pursuant to worker health. The Planning Director shall review and provide a determination on the completeness of the reports.

**SPECIFIC PROJECT CONDITIONS**

**22. Final Design Review**

***a. Prior to issuance of demolition, grading, or a building permit.***

As the design development of the building proceeds, the design elements listed below shall be revised and shall be submitted for review and approval by the Planning Director prior to issuance of the demolition, grading, or a building permit. Only high quality materials will be approved. The Planning Director may exercise his/her standard authority to refer the design revisions to an appointed sub-committee of the Planning Commission or to the Planning Commission.

1. Provide staff with an updated materials board which includes a full-scale mock up of the stone and brick concrete panels and the depth of the reveals and construction joints. The applicant will also submit a full-scale mock up of the way the materials turn the corners of the building and these will be of substantial thickness as determined by staff.
2. The applicant will provide staff with detailed drawings of the pedestrian level for review and approval.
3. The applicant shall submit the type of decorative metal balconies, railings, and gates for review and approval.
4. The applicant will submit information that affirms that any metal treatment used on the building will be coated or sealed to prevent rusting.
5. The applicant shall submit the locations of any exterior mechanical equipment including generators and vaults. These locations will be approved by the staff and will be adequately screened and buffered from view.
6. The applicant must provide staff with cut sheets for the all windows and details showing the window profiles. The applicant shall provide a minimum 2" window recess.

***Conditions of Approval***

- 7. The applicant shall submit a detail or “cut-sheet” of the any service doors for staff review.
- 8. The applicant shall ensure that the cornices, spandrels, and dentals are constructed of pre-cast concrete. No foam or other material will be accepted.
- 9. The applicant shall submit to staff details of the residential canopy for review and approval.

**23. Covenants, Conditions, and Restrictions & Homeowner’s Association**

**a. *Prior to recordation of the Final Map***

The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division for review. The CC&Rs shall provide for the establishment of a non-profit homeowners association for the maintenance and operation of all on-site sidewalks, pathways, common open space and all common landscaping, driveways, and other facilities, in accordance with approved plans. Membership in the association shall be made a condition of ownership. The developer shall be a member of such association until all units are sold. The Covenants, Conditions and Restrictions (CC&Rs) for the units shall be submitted to the Planning and Zoning Division for review to affirm that they include the provisions listed here.

- b. Acknowledgement that many and specific parking spaces are deficient in additional width. (Due to column or wall locations.)
- c. Require purchasers to acknowledge that maneuverability of several of the parking spaces within the garage may be affected by the location of columns or walls and that due care and caution should be used.

**24. Master Signage Program**

**a. *Prior to sign permit***

The project applicant shall submit a master signage plan for review per the Planning and Zoning regulations, including but not limited to location, dimensions, materials and colors.

**25. Irrigation Plan and Landscape Maintenance**

**a. *Prior to issuance of demolition, grading, or a building permit***

An irrigation plan shall be prepared by a licensed landscape architect or other qualified person and submitted in conjunction with the demolition, grading, or a building permit submittal. All landscape and irrigation shall be installed prior to final demolition, grading, or a building permit inspection.

**b. *Ongoing***

All project landscaping shall be permanently maintained in a neat, safe, and healthy condition.

**26 Lighting Plan**

**a. *Prior to issuance of demolition, grading, or a building permit***

The applicant shall submit a lighting plan for review and approval by the Planning and Zoning Division, with referral to other City departments as appropriate. The plan shall include the design and location of all lighting fixtures or standards. The plan shall indicate lighting fixtures that are adequately shielded to a point below the light bulb and reflector and that prevent unnecessary glare onto adjacent properties. All lighting shall be architecturally integrated into the site. Submit exterior features and locations.

**APPROVED BY:** City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)  
City Council: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)

***Conditions of Approval***

***Conditions of Approval***